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Biden sues Ryan Homes for consumer fraud

Wilmington, DE – Attorney General Beau Biden announced today that his office has filed a 39-count consumer fraud lawsuit against NVR, Inc., which does business under the name “Ryan Homes.” Ryan Homes built several sections of homes in the Odessa National development, in Townsend, Delaware, where the alleged fraud took place. The civil suit, filed today in New Castle County Superior Court, seeks civil penalties of \$10,000 for each violation of Delaware’s Consumer Fraud Act, restitution for 39 home buyer victims, punitive damages, and investigative costs.

The lawsuit alleges multiple misrepresentations in the sales of homes, including:

- promises of amenities that were never built
- mischaracterization of mandatory golf course fees as homeowners association fees
- telling buyers that mandatory golf course fees were for the construction of promised amenities
- failing to identify the existence of additional fees which were maintenance fees
- withholding information about deed restrictions that were contained in a declaration of covenants and restrictions filed in the Recorder of Deeds Office, and
- telling some buyers that they could “opt out” of certain mandatory fee obligations

“As a result of the alleged misrepresentations and factual omissions that occurred in these sales, buyers purchased homes with more fees and restrictions and fewer amenities than Ryan Homes had promised,” Attorney General Biden stated. “We’re taking action today to protect consumers, hold the builder accountable to Delaware law, and ensure that future homebuyers receive the information they need to make informed purchasing decisions.”

According to the lawsuit, Ryan Homes advertised and promised a range of amenities to be completed by 2008, including an 18-hole championship golf course with pro shop, putting green, and driving range; clubhouse with restaurant and fitness center; swimming pool; tennis courts; basketball courts; recreation fields; playground and child play area; and other recreational areas. However, instead buyers received social memberships in a golf course with no clubhouse. Moreover, for the membership, homeowners were required to pay \$1,200 annually as long as they own their home. None of the other amenities has been constructed, according to the suit.

The Delaware Department of Justice has maintained an active two-year investigation of homebuilder practices at Odessa National, a development that involved multiple builders and a separate developer. Ryan Homes built several sections within the community. As a result of the investigation:

- First, in 2008, Ryan Homes settled complaints from buyers in the community's "Legacy" section that they were never told of the fee obligations that came with their properties. After extensive negotiations, the company agreed to assume the \$1,200 annual golf club membership fees for 71 homebuyers. Ryan Homes did not admit any liability in this settlement.
- Second, the Department addressed amenities that had been advertised and promised to home buyers by Ryan Homes, but had never been built. After negotiations with the developer, Joseph M. Capano, Capano's company, Odessa National Golf Course, LLC assumed responsibility for their construction and agreed to build most of the amenities by the end of 2010. In the Department's view, Ryan Homes was equally responsible for the building of the amenities because it was Ryan Homes which had promised them to homebuyers. After promising the amenities, for years Ryan took no action to ensure that the homebuyers received what they had been promised.
- The third and final step was resolving complaints by homebuyers in two other sections Ryan Homes developed called "Tweedsmere" and "Lynemore". At this stage, negotiations broke down, leading to the lawsuit filed today.

The investigation and lawsuit is being led by Deputy Attorney General Richard Hubbard and the Delaware Department of Justice Consumer Protection Unit.

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